Summer 2020

Estate Planning Update Summer 2020 - Philanthropy During the Pandemic

Even before President Donald Trump declared a national emergency with respect to the COVID-19 outbreak on March 13, the pandemic had disrupted the lives of many in the United States and around the world. Private philanthropists have been quick to respond.

Assistance to Impacted Individuals from Private Foundations

Because the COVID-19 pandemic is a presidentially declared national emergency and therefore a "qualified disaster," private foundations can more easily provide assistance directly to impacted individuals. In these circumstances, the Victims of Terrorism Tax Relief Act of 2001 permits charities (including private foundations) to make grants to individuals without undertaking a specific assessment of any individual's need; rather, a charity is required to make payments in good faith, using a reasonable and objective formula that is consistently applied. Distributions must be made to individuals who qualify as members of a particular "charitable class." The charitable class could include all individuals impacted by a particular disaster or a specific group of individuals, like employees of a particular employer. Any such "qualified disaster payments" (QDPs) are not taxable income to the recipients. QDPs include reasonable and necessary personal, living or funeral expenses incurred as a result of a qualified disaster as long as they are not otherwise covered by insurance. Expenses that reasonably could result from the pandemic include medical and other health-related expenses; medications; hand sanitizers; child care or tutoring expenses due to school closings; increased home, utility or communications expenses due to stay-at-home restrictions; and increased cost of home supplies. However, QDPs do not include income replacement payments (like lost wages or lost business income).

If you have a private foundation and would like to pursue a QDP program, we can help you structure it.

Relief for Charities Under the CARES Act

The CARES Act, which was signed into law on March 27, provides support for charitable organizations and their employees. The new Paycheck Protection Program loan and expanded Economic Injury Disaster Loan and SBA Express Loan programs have now been made available to many charitable entities. The act provided tax relief to nonprofits through an employee retention tax credit, payroll tax deferral and changes in the treatment of net operating losses for unrelated business taxable income.

If you work with a charitable organization that could benefit from these programs, please contact us; we can help.

Individual and Corporate Charitable Giving Under the CARES Act

Individual donors who itemize deductions will be able to claim charitable contribution deductions for cash contributions up to 100 percent of adjusted gross income (AGI) in 2020. The previous limit was 60 percent of AGI.

In addition, the limit on charitable contributions by corporations has been increased to 25 percent of taxable income in 2020. The previous limit was 10 percent of taxable income.

It is important to note the increased charitable contribution limits only apply to cash contributions to certain types of charities, including publicly supported charities. The increased limits do not apply to contributions to private foundations (unless they are operating foundations), donor advised funds or supporting organizations.

Individual donors who do not itemize deductions can also claim a $300 deduction on top of the standard deduction for cash charitable contributions in 2020.

For more Day Pitney alerts and articles related to the impact of COVID-19, as well as information from other reliable sources, please visit our COVID-19 Resource Center.

COVID-19 DISCLAIMER: As you are aware, as a result of the COVID-19 pandemic, things are changing quickly and the effect, enforceability and interpretation of laws may be affected by future events. The material set forth in this document is not an unequivocal statement of law, but instead represents our best interpretation of where things stand as of the date of first publication. We have not attempted to address the potential impacts of all local, state and federal orders that may have been issued in response to the COVID-19 pandemic.

Day Pitney Estate Planning Update- Summer 2020 (pdf)